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COMMITTEE ON ENERGY AND COMMERCE

HEALTH

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Congress of the United States
House of Representatives

January 11, 2022

The Honorable Frank Pallone, Jr.
Chairman
Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone:

I write to urge you to hold a hearing on the implementation of the Public Health Service Act (U.S.C. Title 42), specifically section 209. The Energy and Commerce Committee has jurisdiction over the Department of Health and Human Services (HHS) and it is our responsibility to conduct proper oversight to ensure that taxpayer dollars are being used appropriately.

The Public Health Service Act is a comprehensive law that authorizes the HHS Secretary to determine if a public health emergency exists, to lead the federal public health and medical response to such emergencies, and to assist states in their response activities. Specifically, Section 209 of the Public Health Service Act allows for the appointment of special consultants or individual scientists for employment by HHS without regard to civil service laws, including pay caps.¹ Both the Environmental Protection Agency (EPA) and HHS are using this authority to set higher pay limits for employees or officers than those provided under typical civil service hiring authorities.

Dr. Anthony Fauci was the highest paid federal employee in 2021, making \$434,312, \$16,000 more than in 2020.² He is classified as a Medical Officer at the National Institutes of Health (NIH) under the employees appointed and compensated as special consultants. A recent report by Forbes detailed an audit that estimated Dr. Fauci's annual retirement would exceed \$350,000 after 55 years of service in the federal government.³

Beginning in 2011, I offered an amendment to successive appropriations bills to limit the ability of the EPA to use the Title 42 special pay authority. This Congress, I introduced that language as a standalone bill, H.R. 3181, the Health and Human Services Hiree Clarification Act. My bill prohibits the EPA from using the Title 42 authority to hire or pay the salary of

¹ <https://www.law.cornell.edu/uscode/text/42/209>

² <https://www.federalpay.org/employees/national-institutes-of-health/fauci-anthony-s>

³ <https://www.forbes.com/sites/adamandrzejewski/2021/12/28/dr-anthony-faucis-retirement-pay-will-exceed-350000-per-year--the-largest-in-us-federal-government-history/?sh=1ef832eb609c>

officers or employees who are not already receiving pay under such authority. Given recent reporting surrounding Dr. Fauci's significant pay rate, it is imperative that the Energy and Commerce Committee conduct oversight of the Public Health Service Act (U.S.C. Title 42), specifically section 209. We must restore confidence for the American people that their taxpayer dollars are being used appropriately when paying federal employees in positions of public trust.

I ask that you schedule an oversight hearing as soon as possible, and I look forward to your prompt response.

Sincerely,



Michael C. Burgess, M.D.
Member of Congress